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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,433	12/28/2001	William L. Jorgenson	50135101-8	9587

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BAKER & MCKENZIE
805 THIRD AVENUE
NEW YORK, NY 10022

EXAMINER

MCCLELLAN, JAMES S

ART UNIT PAPER NUMBER

3627

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,433

Applicant(s)

JORGENSEN ET AL.

Examiner

James S McClellan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,5,4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Information Disclosure Statement

1. Applicant's submittal of an IDS on November 25, 2002 was entered and fully considered as set forth by the signed copy of the submitted PTO-form 1449.
2. Applicant's submittal of an IDS on September 9, 2002 was entered and fully considered as set forth by the signed copy of the submitted PTO-form 1449.

Specification

3. The disclosure is objected to because of the following informalities:

on page 16, line 19, "specifies" should be replaced with --specify--.

Appropriate correction is required.

Claim Objections

4. Claim 18 is objected to because of the following informalities: line 18, between , --and -- should be inserted between "stage" and "a" . Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 5, the claim is indefinite because it depends from a claim that provides alternatives for the first stage information of at least one of producer name, producer address, producer phone number, and inventory information, wherein claim 5 fails to explicitly require that first stage information includes inventory information. In order to further limit an alternative of claim 4, claim 5 must positively claim one of the alternatives. The Examiner recommends amending claim 5 as follows: in line 3, after “wherein” insert --the first stage information includes inventory information and--.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,478,990 (Montanari et al.).

Regarding **claim 1**, Montanari et al. discloses a tracking method for a supply chain having at least first stage and a second stage, the method comprising: receiving first stage information (see column 3, lines 41-43; for example: raising) and second stage information (see column 3, lines 41-43; for example: fabricating), the first stage information and the second stage

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information input at the second stage (see column 10, lines 30-32, “ a TN can be assigned at anytime”); processing the first stage information and the second stage information so that the first stage is associated with the second stage information (see column 3, lines 49-54); and storing the first stage information and the second stage information in a database (see column 6, lines 10-13), wherein the stored first stage information and the stored second stage information are at least accessible at the second stage (see column 8, lines 35-46); **[claim 2]** the stored first stage information and the stored second stage information are accessible at the second stage and at least one successive stage in the supply chain (see column 8, lines 35-46); **[claim 3]** the first stage is a producer stage (see column 8, lines 20-34, “rasier”) and the second stage is a processing stage (see column 8, lines 20-34, “fabricator”); **[claim 4]** the first stage information includes at least one of producer name (see column 10, lines 20-24, “prior owners”), producer address, producer phone number and inventory information (see column 4, lines 43-53, “weight of the product...nutritional information”); **[claim 5]** the inventory information includes at least one of crop type, crop variety, crop moisture, protein and test weight(see column 4, lines 43-53, “weight of the product...nutritional information”); **[claim 6]** the second stage information includes at least one of planning data, storage data, milling data, packaging data, data indicative of yields in production (see column 6, line 30, “production history”), finished product storage data and shipping data; **[claim 7]** the first stage information is input at the second stage because the first stage is a non-participant in a transactional supply chain system and the second stage is a participant in the transactional supply chain system (see column 10, lines 30-32, “ a TN can be assigned at anytime”).

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Regarding **claim 8**, Montanari et al. discloses a tracking method for a supply chain having at least a first stage (see column 3, lines 41-43; for example: raising) and a second stage (see column 3, lines 41-43; for example: fabricating), the method comprising: receiving first stage agricultural information and second stage agricultural information, the first stage agricultural information and the second stage agricultural information input at the second stage (see column 10, lines 30-32, “ a TN can be assigned at anytime”); processing the first stage agricultural information and the second stage agricultural information so that the first stage agricultural information is associated with the second stage agricultural information (see column 3, lines 49-54); and storing the first stage agricultural information and the second stage agricultural information in a database (see column 6, lines 10-13), wherein the stored first stage agricultural information and the stored second stage agricultural information are at least accessible at the second stage and at least one successive stage in the supply chain (see column 8, lines 35-46), and the first stage is one of a producer stage and a processing stage (see column 8, lines 20-34, “rasier”), and the second stage is one of a processing stage, a storage stage and a manufacturing stage (see column 8, lines 20-34, “fabricator”).

Regarding **claim 9**, Montanari et al. discloses a tracking method for a non-linear supply chain, the method comprising: recording a history of a first item (for example, grains, see column 4, line 26) traversing a first path of the non-linear supply chain (see column 4, lines 53-60, wherein the byproduct are non-linear and multi-output); and recording a history of a second item (for example, vegetables, see column 4, line 25) traversing a second path of the non-linear supply chain, wherein the first path and the second path are a first output and a second output, respectively, of a multi-output stage in the non-linear supply chain; [**claim 10**] the first path

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includes at least one multi-output stage (it is inherent that Montanari et al. is capable of and would be used on non-linear and multi-output chains), the first item resulting from one of a plurality of outputs of the multi-output stage along the first path; **[claim 11]** the second path includes at least one multi-output stage, the second item resulting from one of a plurality of outputs 25 of the multi-output stage along the second path; **[claim 12]** recording the history of the first item includes associating first information applying to a stage of the non-linear supply chain with the first item, the first information including at least one of quantity information, performance information (see column 6, line 30, "production history) and quality information, and associating second information applying to another stage with the first item, the second information including at least one of quantity information, performance information (see column 6, line 30, "production history) and quality information; **[claim 13]** the other stage is the multi-output stage; **[claim 14]** recording the history of the second item includes associating first information applying to a stage of the non-linear supply chain with the second item, the first information including at least one of quantity information, performance information (see column 6, line 30, "production history) and quality information, and associating second information applying to another stage with the second item, the second information including at least one of quantity information, performance information (see column 6, line 30, "production history) and quality information; **[claim 15]** recording the history of the first item includes associating information applying to a stage of the non linear supply chain with the first item, the information including at least one of quantity information, performance information (see column 6, line 30, "production history) and quality information and, wherein the recording of the history of the second item includes associating the information applying to the stage of the non-linear supply

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chain with the second item; **[claim 16]** recording the history of the first item includes associating first information applying to a stage of the non-linear supply chain with the first item, the first information including at least one of quantity information, performance information (see column 6, line 30, “production history”) and quality information and associating second information applying to another stage with the first item, the second information including at least one of quantity information, performance information (see column 6, line 30, “production history”) and quality information, and wherein the recording of the history of the second item includes associating the first information applying to the stage of the non-linear supply chain with the second item and associating the second information applying to the other stage with the second item; and **[claim 17]** transmitting the first information and the second information to at least one individual of a plurality of individuals within or outside the non-linear supply chain, the first information and the second information informing the at least one individual about the history of at least the first item (see column 3, lines 29-30, “third party verifiers”).

Regarding **claim 18**, Montanari et al. discloses a tracking method for a non-linear supply chain, the method comprising: recording a history of a first item (for example, “grains”) traversing a first path of the non-linear supply chain by associating first information applying to a first stage of the non-linear supply chain with the first item, the first path including the first stage (growing) and a second stage (fabricating) and the first information including at least one of quantity information, performance information (see column 6, line 30, “production history”) and quality information, and associating second information applying to the second stage with the first item, the second information including at least one of quantity information, performance information (see column 6, line 30, “production history”) and quality information; and recording a

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history of a second item traversing a second path of the non-linear supply chain by associating the first information applying to the first stage of the non-linear supply chain with the second item, the second path including the first stage and a third stage (distribution), and associating third information applying to the third stage with the second item, the third information including at least one of quantity information, performance information (see column 6, line 30, "production history) and quality information; and transmitting the first information, the second information and the third information to at least one individual of a plurality of individuals within or outside the non-linear supply chain, the first information, the second information and the third information informing the at least one individual about the history of the first item and the second item, wherein the first stage is a multi-output stage having at least outputs.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Easton is cited of interest for disclosing a device to measure and provide data for plant population.

Lowe is cited of interest for disclosing a merchandise marking tag.

Reep is cited of interest for disclosing a system for real time linkage between harvest environment and marketplace.

Pellenc et al. is cited of interest for disclosing a process of using localized agricultural data to optimize the cultivation of perennial plants.

Horwitz et al. is cited of interest for disclosing a method for tracking items.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

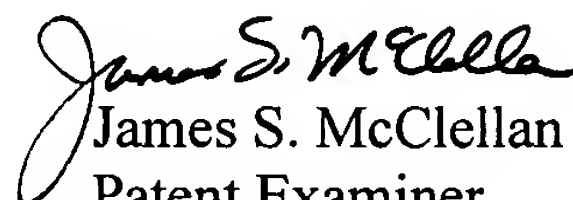
Any response to this action should be mailed to:

Commissioner of Patent and Trademarks
Washington D.C. 20231

or faxed to:

(703) 305-7687 (Official communications) or
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.


James S. McClellan
Patent Examiner
A.U. 3627

jsm
August 6, 2003